

Profit By Air, Inc.

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of Petition :
 of :
PROFIT BY AIR, INC. :
for redetermination of deficiencies :
of franchise tax under Section 183 :
of Article 9 of the tax law for the :
privilege years begun January 1, :
1969 to January 1, 1973, inclusive :

Profit By Air, Inc. having filed petition for redetermination of deficiencies of franchise tax under Article 9 of the tax law for the privilege years begun January 1, 1969 to January 1, 1973, inclusive, and a hearing having been held in connection therewith at the office of the State Tax Commission, 2 World Trade Center, New York City, at which hearing S. Becker and T. J. Cohen, certified public accountants, appeared and the record having been duly examined and considered by the State Tax Commission,

It is hereby found:

(1) The taxpayer was incorporated in New York State on February 21, 1968 and is engaged in business as an air freight forwarder. It consolidates individual parcels which are shipped by air common carriers within and without the United States. The headquarters of the corporation are located at 230 Rockaway Avenue, Valley Stream, New York. All bills and accounts receivable from customers are collected at that office.

In computing an allocation of its capital stock on the annual franchise returns filed on form CT-40, the taxpayer allocated to New York, in the numerator at Schedule F, item 1, column (a), only bills and accounts receivable generated from shipments whose origins and destinations were in the State of New York. Receivables from interstate and foreign business were excluded by the taxpayer from the numerator.

Since all bills and accounts receivable were collected at taxpayer's New York office, the Corporation Tax Bureau included such amounts in the numerator of the allocation factor. Statements of audit adjustment dated January 15, 1974 and notices of deficiency were issued indicating revised allocation factors and tax deficiencies as follows:

<u>Privilege Year Begun</u>	<u>Revised Allocation %</u>	<u>Tax Deficiency</u>
1/1/69	83.08	\$2,001.00
1/1/70	90.32	5,262.00
1/1/71	92.43	6,593.00
1/1/72	93.56	7,366.00
1/1/73	89.75	6,780.00

(2) Section 183.2 of the tax law reads in part:

"The measure of the amount of capital stock in this state . . . shall be such a portion of the issued capital stock as the gross assets . . . employed in any business within this state . . . bear to the gross assets . . . wherever employed in business."

The State Tax Commission hereby

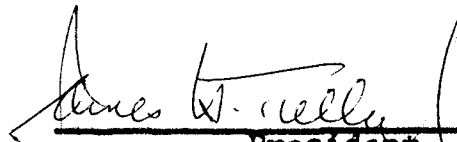
DECIDES:

(A) Since all bills and accounts receivable were collected by the New York Office of the taxpayer, such assets were employed in New York and, pursuant to Section 183.2 of the tax law, must be included in the numerator in computing the allocation factor.

(B) The tax deficiencies as indicated at (1) are affirmed, together with interest in accordance with Section 1084 of Article 27 of the tax law.

Dated: Albany, New York
this 3rd Day of July 1975.

STATE TAX COMMISSION



President



Commissioner



Commissioner